

April 18, 1973

TO THE MEMBERS OF THE SENATE, SIXTY-THIRD LEGISLATURE,  
REGULAR SESSION, STATE OF TEXAS:

Pursuant to the provisions of Article IV, Section 14 of the Constitution of the State of Texas, I herewith return to you S. B. 373 unsigned for the following reasons:

On April 10th under authority granted the Governor of Texas by the Constitution I requested the opinion of the Attorney General as to the Constitutionality of Senate Bill 373. This afternoon I received that opinion.

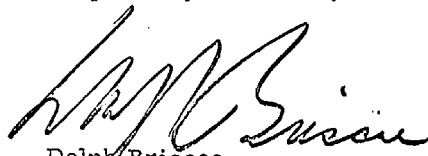
General Hill's opinion holds the bill to be constitutional if "the furlough contemplated by the bill be under such circumstances that the prisoner will remain a prisoner, and that the furlough will not have the characteristics of a commutation, a reprieve, a pardon, or a parole."

Under the present law the Board of Pardons and Paroles and the Governor jointly grant emergency reprieves for the purpose of obtaining medical treatment, diagnosis or medical study, and for the purpose of attending to family emergencies. These types of emergency reprieves are exactly of the same nature as the emergency furloughs called for in Senate Bill 373.

Further, Senate Bill 373 does not set out requirements that would insure "that the prisoner will remain a prisoner" nor does it require such assurances by the Department of Corrections.

It is my firm belief that on so important a matter as the release of convicts from confinement in prison the legislature and not a State agency, should set the guidelines for the protection of the public in these circumstances.

Respectfully submitted,

  
Dolph Briscoe  
Governor of Texas